

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 17A.3, the Department of Public Safety hereby gives Notice of Intended Action to amend Chapter 25, "Public Records and Fair Information Practices," Iowa Administrative Code.

Iowa Code chapter 22 establishes the basic framework for access to records of public agencies in Iowa. 661—Chapter 25 was adopted in 1988 to facilitate implementation of these requirements by the Department of Public Safety. Other chapters of the administrative rules of the Department also relate to the release of records, including Chapter 11 (criminal history records), Chapter 81 (criminal intelligence files), Chapter 83 (sex offender registry records) and Chapter 89 (missing persons records). Last year, Chapter 25 was amended to be consistent with the "Peace Officer Bill of Rights," which was enacted as 2007 Iowa Acts, chapter 160, and is now codified as Iowa Code Supplement section 80F.1. Because of uncertainty about the scope of applicability of that then-new Code language, a new provision having to do with the release of photographs of employees of the Department was written broadly. It now appears clear that the law is applicable only to certain employees of the Department, so the rule regarding release of photographs is being revised accordingly. In addition, the rule which provides directions about how to obtain information about records maintained by the Department is being updated.

A public hearing on these proposed amendments will be held on August 12, 2008, at 8 a.m. in the First Floor Conference Room (Room 125), State Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319. The building and conference room are fully accessible. Persons may present their views orally or in writing at the public hearing. Persons who wish to make oral presentations at the public hearing should contact the Agency Rules Administrator, Iowa Department of Public Safety, Public Safety Headquarters Building, 215 East 7th Street, Des Moines, Iowa 50319, by mail, by telephone at (515)725-6185, or by electronic mail to admrule@dps.state.ia.us, at least one day prior to the public hearing.

Any written comments or information regarding these proposed amendments may be directed to the Agency Rules Administrator by mail or electronic mail at the addresses indicated by 4:30 p.m. on August 11, 2008, or may be submitted at the public hearing. Persons who wish to convey their views orally other than at the public hearing may contact the Agency Rules Administrator by telephone or in person at the Department office at least one day prior to the public hearing.

These amendments are intended to implement Iowa Code chapter 22 and Supplement chapter 80F.

The following amendments are proposed.

ITEM 1. Amend rule 661—25.11(17A,22) as follows:

661—25.11(17A,22) Records ~~management~~ retention manual. The department's "Records ~~Management~~ Retention Manual" contains the records management information ~~requested~~ required by Iowa Code chapter 22. The manual is available for examination and copying at the ~~Administrative Services Division~~ Public Information Bureau, Department of Public Safety, ~~Wallace State Office Building 215 East 7th Street~~, Des Moines, Iowa 50319, ~~and at district offices.~~

ITEM 2. Amend rule 661—25.15(22,82GA,SF457) as follows:

661—25.15(22,82GA,SF457 80F) Release of official photographs of employees.

25.15(1) An official photograph of ~~any~~ an employee of the department who is an officer as defined in Iowa Code Supplement section 80F.1 shall be released only if one of the following is true:

~~1. a.~~ The employee has signed a written release giving permission to release, the photograph, or

~~2. b.~~ A request has been received to release the photograph pursuant to Iowa Code chapter 22.

25.15(2) A photograph of ~~an~~ any employee of the department shall not be released if its release could jeopardize an ongoing investigation or place the employee at risk.